

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

REVERSE MORTGAGE SOLUTIONS, INC.)
)
Plaintiff,)
)
vs.) No. 13-cv-02826-JPM-dkv
)
THE UNKNOWN HEIRS OF MARY J.)
WALKER, GRACIE McDANIEL, JAMES)
ALLEN, PATSYE a/k/a PATSY WALKER)
GATES, JIMMIE ALKER, TERRY WALKER,)
CAROLYN WALKER FLEMING, SECRETARY)
OF HOUSING AND URBAN DEVELOPMENT,)
and CREDIT ACCEPTANCE CORPORATION,)
)
Defendants.)

REPORT AND RECOMMENDATION ON MOTION FOR REMAND

Before the court is the March 17, 2014, motion of the plaintiff, Reverse Mortgage Solutions, Inc., pursuant to 28 U.S.C. § 1447(c), seeking an order remanding this case to the Chancery Court for Shelby County, Tennessee. (Pl.'s Mot. to Remand, D.E. 8) The defendant, the Secretary of Housing and Urban Development, does not oppose the motion. The other named defendants have not responded to the motion, and the time for response has expired. The motion has been referred to the United States Magistrate Judge for report and recommendation. (Order, D.E. 12.) For the reasons that follow, it is recommended that this case be remanded to Chancery Court of Shelby County, Tennessee, pursuant to 28 U.S.C. § 1447.

This action arises out of the foreclosure sale of a parcel of a parcel of real property located at 1559 Ash Street, Memphis, Tennessee ("the Ash Street Property") on November 16, 2013 due to default on a loan by Mary J. Walker, which loan was secured by a deed of trust on the Ash Street Property. On September 5, 2013, Reverse Mortgage filed a complaint in the Chancery Court of Shelby County, Tennessee, seeking to rescind the foreclosure sale in order to allow a short sale of the property by the heirs of Mary Walker under the foreclosed deed of trust. The Secretary of Housing and Urban Development was named a defendant in the complaint pursuant to 28 U.S.C. § 2410 because the U.S. claimed a lien on the Ash Street Property. On October 23, 2013, the Secretary of Housing and Urban Development removed the action to federal court pursuant to 28 U.S.C. § 1444 which provides that: [a]ny action brought under section 2410 of this title against the United States in any State court may be removed by the United States to the district court of the United States for the district and division in which the action is pending."

There are two actions pending in the Chancery Court for Shelby County, Tennessee that involve the Ash Street Property and the application of Tennessee law. The parties agree that the Chancery Court should decide the matter.

Accordingly, the court finds that adequate grounds for the

requested remand exist, and it is recommended that this action be remanded to the Chancery Court of Shelby County, Tennessee, and that the Clerk of Court be directed to close this case without entry of judgment.

Respectfully submitted this 14th day of April, 2014.

s/ Diane K. Vescovo
U.S. MAGISTRATE JUDGE

NOTICE

Within fourteen (14) days after being served with a copy of this report and recommended disposition, a party may serve and file written objections to the proposed findings and recommendations. A party may respond to another party's objections within fourteen (14) days after being served with a copy. FED. R. CIV. P. 72(b)(2). Failure to file objections within fourteen (14) days may constitute a waiver of objections, exceptions, and further appeal.